

PEARSON, J.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

ANTHONY DUANE WILSON,	)	
	)	CASE NO. 4:23CV1501
Plaintiff,	)	
	)	
v.	)	JUDGE BENITA Y. PEARSON
	)	
WORLD WRESTLING	)	
ENTERTAINMENT, <i>et al.</i> ,	)	
	)	<b><u>ORDER OF DISMISSAL</u></b>
Defendants.	)	[Resolving <a href="#">ECF No. 7</a> ]

Pending before the Court is *Pro Se* Plaintiff Anthony Duane Wilson’s Motion for Default Judgment ([ECF No. 7](#)).

The Complaint ([ECF No. 1](#)) against Defendants World Wrestling Entertainment (“WWE”) and All Elite Wrestling (“AEW”) in the above-entitled action alleging copyright infringement was filed on August 2, 2023. On August 23, 2023, the Court entered an Order ([ECF No. 4](#)) that provides, in pertinent part: “When a *pro se* plaintiff pays the full filing fee, as is the case here, the plaintiff is responsible for perfecting service upon the defendants. [Guide for Pro Se Litigants at 19](#). See [LR 4.2](#), if service of the summons will be made by certified mail.”

[Fed. R. Civ. P. 4\(m\)](#) requires the plaintiff to serve the summons and complaint upon the defendant within 90 days after the complaint is filed. [ECF No. 4](#) also advised Plaintiff that if he could not show good cause why service of the summons and complaint was not made upon Defendants within 90 days after the filing of the complaint, pursuant to [Rule 4\(m\)](#), the action would be dismissed without prejudice on November 1, 2023.

(4:23CV1501)

The file in this case continues to show no service of the summons and complaint upon Defendants. The Case Management/Electronic Case Files (CM/ECF) system records the docket events regarding service in this case and indicates that Plaintiff submitted for filing and docketing by the Clerk of Court the domestic return receipt cards, PS Form 3811 (the “green card”). See ECF Nos. [5](#) and [6](#). While a Return of Service ([ECF No. 5](#)) by certified mail executed upon AEW at “1 Tiaa Bank Field Dr., Jacksonville, Florida 32202”<sup>1</sup> was filed, Plaintiff’s service by certified mail was improper.

[LR 4.2](#) provides instructions for service of process. It provides in pertinent part:

[Fed. R. Civ. P. 4\(e\)\(1\)](#) authorizes service pursuant to the law of the state in which the district court is located for a summons or other like process upon the defendant in an action brought in the courts of general jurisdiction of Ohio. [Rules 4.1 and 4.3\(B\) of the Ohio Rules of Civil Procedure](#) provides for service by the Clerk mailing the summons and complaint by certified mail. An attorney who attempts to effect service in this Court pursuant to the law of Ohio must comply with the following procedure:

(a) Plaintiff’s attorney shall address the envelope to the person to be served, shall enter as the return address the address of the issuing location for *The Office of the Clerk*, and shall place a copy of the summons and complaint or other document to be served in the envelope. Plaintiff’s attorney shall also affix to the back of the envelope the domestic return receipt card, PS Form 3811, July 1983, (the “green card”) showing the *Name of Sender as Clerk, United States District Court, Northern District of Ohio* at the appropriate address with the certified mail number affixed to the front of the envelope. The instructions to the delivering postal employee shall require the employee to show to whom delivered, date of delivery, and address where delivered. Plaintiff’s attorney shall affix adequate postage to the envelope and deliver it to the Clerk who shall cause it to be mailed. The envelope should be

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<sup>1</sup> 1 EverBank Stadium Drive, Jacksonville, Florida 32202 is listed as an address for AEW on its website. See <https://www.allelitewrestling.com/> (last visited Nov. 1, 2023).

(4:23CV1501)

unsealed when it is delivered to the Clerk so that the Clerk can verify the contents prior to mailing.

(b) *The Clerk* shall enter the fact of mailing on the appearance docket and make a similar entry when the return receipt is received. . . . (Emphasis added.)

The complaint and summons that AEW apparently received on September 1, 2013 had not been delivered to, nor mailed by, the Clerk as required by [LR 4.2](#) to perfect service via certified mail. See [ECF No. 5](#).

In addition, attorneys are authorized by [LR 4.2](#) and the Ohio Rules of Civil Procedure to docket a return of service only if service was perfected by “personal Process Server.” [U.S. Bank National Ass’n v. Lenor](#), No. 1:07CV2635, 2008 WL 1775250, at \*3 (N.D. Ohio April 15, 2008) (Boyko, J.). Plaintiff, therefore, failed to perfect service upon AEW via certified mail because he did not follow procedure to docket a return of service in accordance with [LR 4.2](#). See [Jarmoszuk v. Farm Credit of Florida](#), No. 1:13CV0475, 2013 WL 3947687 at \*2-3 (N.D. Ohio July 31, 2013) (Pearson, J.) (finding plaintiff failed to perfect service upon defendant via certified mail or personal process server).

The same can be said for the unexecuted Return of Service ([ECF No. 6](#)) by certified mail upon WWE. The complaint and summons for WWE had not been delivered to, nor mailed by, the Clerk as required by [LR 4.2](#) to perfect service via certified mail. See [ECF No. 6](#). Plaintiff, therefore, also failed to perfect service upon WWE via certified mail because he did not follow procedure to docket a return of service in accordance with [LR 4.2](#). More importantly, no signature or delivery date is provided on the green card returned by the postal employee charged with delivering the certified mail to WWE. See [Ohio R. Civ. P. 4.1\(A\)\(1\)\(a\)](#) (service may be

(4:23CV1501)

made by United States certified mail “[e]videnced by return receipt signed by any person. . . .”);

CUC Properties VI, LLC v. Smartlink Ventures, Inc., 178 N.E.3d 556, 560 ¶ 8 (Ohio Ct. App. 2021) (“The entire purpose of certified mail service . . . is to ensure that proof exists that someone actually received the service, which explains why both subsection (1)(a) and (1)(b) *emphasize the signature requirement.*”) (emphasis added).<sup>2</sup>

Accordingly, the Court dismisses this case without prejudice for failure to serve the summons and complaint upon Defendants World Wrestling Entertainment and All Elite Wrestling within 90 days after the Complaint (ECF No. 1) was filed. Plaintiff’s Motion for Default Judgment (ECF No. 7) is denied as moot.

The Clerk is directed to issue a copy of this Order of Dismissal by regular mail to Anthony Duane Wilson, 6862 State Route 7, Kinsman, Ohio 44428.

IT IS SO ORDERED.

November 3, 2023  
Date

/s/ Benita Y. Pearson  
Benita Y. Pearson  
United States District Judge

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<sup>2</sup> Plaintiff’s assertion that he “has been in contact with Defendant through Social Media, Defendant is very aware of these proceedings,” ECF No. 7 at PageID #: 20, is of no moment.